

April 28, 2010

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TOWN OF NEW WINDSOR

PLANNING BOARD

APRIL 28, 2010

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HOWARD BROWN
DANIEL GALLAGHER
HENRY SCHEIBLE
HARRY FERGUSON

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

JENNIFER GALLAGHER
BUILDING INSPECTOR

NICOLE JULIAN
PLANNING BOARD SECRETARY

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

ABSENT: HENRY VAN LEEUWEN

REGULAR MEETING

MR. ARGENIO: I'd like to call the April 28, 2010
meeting of New Windsor Planning Board to order. Please
stand for the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited)

MR. ARGENIO: I've asked Nicole to hand somebody in the audience a piece of paper, if you'd like to speak tonight in this public hearing, please put your name on there and even if you change your mind if somebody before you addresses your concern and you change your mind and you don't want to speak, that's fine too. That will save us from wasting a lot of time here with the stenographer and blah, blah, blah, blah, just give her your first name and your last name and she'll have your proper spelling, et cetera.

PUBLIC_HEARINGS:

METROPCS_SITE_PLAN_(10-12)

MR. ARGENIO: First item on tonight's agenda is the MetroPCS site plan, Rolling Ridge/Dean Hill Road, co-location of telecommunications on existing tower. Gentlemen, please give the stenographer your name and what firm you're with and I'd like to hear what you have to say tonight.

MR. MORANDO: Anthony Morando, M-O-R-A-N-D-O from the firm of Cutty & Feder, we represent MetroPCS. We were here before the board this month, the last meeting we presented our initial presentation to the board, we addressed comments from the, minor comments from the staff, we complied with the requirements of the town for the public hearing. We have met all the public notice requirements and we're here for the public hearing. So I'll start for the people in the public, I'll start.

MR. ARGENIO: No, you won't do that. Here's what you're gonna do. Typically, when you give the board changes to review then we open it up to the public but

there's not a lot of site plan appurtenances and issues for us to review. So what I'm going to do is I'm going to open it up to the public and get their commentary and that will be addressed to this board. While that's happening, guys, take a look, we saw this once already and there's not a lot to do. For the edification of everybody here, this application it pre-exists our Town Law that regulates towers so by law, this board is obliged to look at it as a pre-existing, non-conforming use and we're going to do it as such, we're going to do that. So at this point in time, I'd like to open the public hearing, if you'd like to address this board, please raise your hand, be recognized, come forward, we're looking for your first and last name for the benefit of the stenographer, spelling is on the piece of paper that's going around the room. And the other thing I would ask is that if Johnny asks a question and it gets addressed and Billy is going to ask the same question, let's be respectful of everybody's time in the room, if the question has been asked and answered let's not go over and over things. So that said, is there anybody that would like to speak on behalf or against or for this application, please raise your hand? Okay, the young lady with the black sweatshirt, please come forward, state your name first and last for Franny and tell us what your question or Mr. Engineer would you please come up here cause I may have to call on you cause I'm not or somebody, are you the engineer? Both you guys come up here. I'm not a cell tower expert.

MS. KOSS: I'm not a cell tower expert either.

MR. ARGENIO: Please, do you have any comments?

MS. KOSS: My name is Miranda Koss, K-O-S-S as in Sam. What did you want to know where I live?

MR. ARGENIO: That's it.

MS. KOSS: I live right off of Rolling Ridge where Forest Glen meets Rolling Ridge. I spent the last few days trying to find out exactly, I know this tower is already existing but I can't figure out where it is.

MR. ARGENIO: Boy, that's a good thing, isn't it, for everybody? And I don't mean that sarcastically, I mean that truly.

MS. KOSS: Yeah, I mean, cause and then when we called up they were trying to inform us it's on Toleman which I know that was already approved last time at the meeting, I'm just concerned, I know people on Dean Hill did not get notices because I went and knocked on doors and they had no idea about this today. And they don't even know what impact, you know, there's no tower over here either so somehow this old tower nobody seems to still know about it but I'm just concerned with how much higher something needs to be, how much more of these we need to have near our children for safety purposes? I'm sure this is, whether it's in this country or other countries that these things are affecting children's health. Do we really need another one? And I was just wondering if they can actually show me exactly where it is as well and is it really, really necessary for us to have this?

MR. ARGENIO: Okay, I'd like you to answer the question where it is and necessity for it and what was the other thing? No, not height.

MS. KOSS: I'm concerned about the height for a couple reasons.

MR. ARGENIO: Go ahead.

MR. MORANDO: Location first.

MR. ARGENIO: Don't push him down though. Turn the easel.

MR. MORANDO: We're going to get you a better plan for you to see so you can see exactly where it is.

MR. ARGENIO: Stop, put that back up there, explain to the lady the height issue.

MR. MORANDO: Okay, currently it's at 152 feet, to avoid having to create a new tower or any other impacts from a new tower, the easiest way to do it, to get the coverage required is to expand it by 12 feet up which is an 8 percent increase which is if you look at photosimms, it's minimal. But by doing that, we're able to get most coverage with the least intrusion to the area. As you mentioned, it's hard to find the tower, it's in a well vegetated area off Dean Hill, it's to the west of Riley Road and the Thruway, if that helps.

MS. KOSS: Not really.

MR. ARGENIO: Put a location plan up.

MS. KOSS: I have to really see it. I think we're all confused because we all live in that area, maybe it's not written correctly on the piece of paper that we got, we looked at the map spot and the location online and the how many more rays of whatever kind of unhealthy stuff is going to be put into the air by adding this on? So the more, I'm just going to deal with the location first, if that's okay.

MR. ARGENIO: Oh, that's great, that's perfect. Is there a location map on this cover sheet, Henry? We'll put that up, that's more reasonable.

MS. KOSS: I'm just curious.

MR. ARGENIO: It's okay. Point your finger to that and explain to the lady where what road is, where you make

a left and a right to get to there cause I think a lot of people are probably concerned with that.

MR. MORANDO: This is Dean Hill Road, that's Rolling Ridge, this site is up here, see where Reilly Road is and Thruway?

MS. KOSS: Where is Toleman?

MR. MORANDO: I don't have a map of Tolman Ron.

MS. KOSS: If Dean Hill is over here, why on the piece of paper does it say it says 126 or 128 Dean Hill which is over here?

MR. EDSALL: Mr. Chairman, can I maybe try to help this situation?

MR. ARGENIO: Mark?

MR. EDSALL: The original approval when this tower went in was prior to two things, it was prior to number one the town's code relative to the permissible zones in which cell towers can be placed, that's one issue. The second thing it was before, it was before this subdivision existed, the driveway that went to the original tower came off of Dean Hill Road. When the subdivision was constructed, Rolling Ridge, the road now that comes off Dean Hill was actually built over top of the old driveway so the address of the original tower was 128 Dean Hill Road. But now the driveway comes off of Rolling Ridge so there's an inconsistency if you look at the old address for the original tower because it was a driveway off Dean Hill now it's--

MS. KOSS: That's why we were panicking.

MR. EDSALL: Now it's a driveway off Rolling Ridge because Rolling Ridge was built over top of an existing driveway.

MR. CORDISCO: The number of the plan is 128 Dean Hill because that's what the original approval was under.

MR. EDSALL: I hope that helps.

MR. ARGENIO: Do you understand, ma'am?

MS. KOSS: I do. Well, again, it makes a lot more sense because you're able to see more of that when you're looking. I mean cause there's, I'm right where, I'm right here and so I drove around the block and I'm looking for I see 126.

MR. ARGENIO: You don't see a tower?

MS. KOSS: What am I missing, is it in my woods, in my back yard? I just don't even know.

MR. ARGENIO: We talked about the height, we talked about the location. What was the third thing you said?

MR. MORANDO: Concern for health.

MR. ARGENIO: I want you to explain to the folks a little bit about how these things work, the FCC thresholds and what we're looking at here.

MR. MORANDO: Well, essentially FCC regulates the--

MR. CORDISCO: You mean radio frequency?

MR. MORANDO: Yes, they set a limit that we have to meet. Just to give you an idea we're below one percent of that level at a cumulative rate.

MR. ARGENIO: So if that level says you can put out 100 "udles" of whatever or frequency hertz, whatever it is you're at less than one "udle" or one hertz?

MR. MORANDO: Zero point 5824 percent.

MR. ARGENIO: That's part of the permanent record that statement he made and I love that. Continue, sir.

MR. MORANDO: It's also in the application we submitted.

MR. ARGENIO: Continue.

MR. MORANDO: And beyond that, that area of this application is actually regulated at the federal level so it's not actually dealt with at a local level as long as we meet those requirements it's off the Planning Board's radar.

MS. KOSS: Okay, I have another question about the height thing.

MR. ARGENIO: Ask it.

MS. KOSS: Is it going to have an issue with planes? Is there going to be some kind of blinking light?

MR. ARGENIO: No, it's not high enough, not nearly high enough.

MR. SCHEIBLE: What's the average height for such a structure so the audience would know where the--

MR. ARGENIO: Your height is X, what's the average height?

MR. MORANDO: Since I'm not an RFF expert, I'll refer to Chris.

MR. ARGENIO: Your name?

MR. OLSON: Christopher Olson, I'm the radio frequency Engineer, consultants for MetroPCS. Whether the

tower's lighted or painted red and white, depending on where its proximity to--

MR. ARGENIO: That's not what we're asking. What's the average rate height of a tower typically?

MR. OLSON: Typical average height in an area most towers are 150 feet, some go up to 200, we typically stay under 200. They need to be lit most of the time when they're over 200 feet, in this case, this tower does not need to be lit or marked, we have already done the FAA evaluation.

MR. ARGENIO: Thank you, sir.

MR. SCHLESINGER: Is the height relative to the topo of the land?

MR. OLSON: Yes, it is, it's based on a slope to the airport.

MR. SCHLESINGER: I understand power may be short.

MR. OLSON: Or they may need to light a taller tower.

MS. KOSS: If it's being higher, I mean I see the tower, the one tower that I can see when I'm driving it's not the most appealing looking. My other question is if it's going to be higher, what are, is it going to be above the tree heights? Is it going to be something that's going to stick out like a sore thumb?

MR. ARGENIO: Whatever is there now eight feet higher.

MS. KOSS: What are they going to do to try and conceal it?

MR. ARGENIO: You said yourself you can't find it.

MS. KOSS: Cause I was looking over here, I was looking

at 128 Dean Hill, this one I can see, I was trying to figure out where it was hiding in my back yard.

MR. ARGENIO: What's your question?

MS. KOSS: What kind of plans do they have to make it not stick out anymore than a sore thumb than what's there already?

MR. MORANDO: Well, there's not much to do, as the chairman said, it's 8 feet so it's just if we, I can show you photos.

MS. KOSS: Some kind of pine?

MR. MORANDO: No.

MR. ARGENIO: Ma'am, that's typically for new construction.

MR. EDSALL: Mr. Chairman?

MR. ARGENIO: We do try to hide them in flag poles.

MR. EDSALL: It's 12 feet or 8 percent.

MR. MORANDO: Sorry, I apologize.

MR. ARGENIO: I'm sorry, 12 feet or 8 percent.

MS. KOSS: I gotcha.

MR. MORANDO: The visual impact is so minimal at that height.

MS. KOSS: I guess that's up for discussion.

MR. ARGENIO: Another question, ma'am?

MS. KOSS: No, I think I guess my main concern is going

to be on the safety and how could we know when to stop these things, when is enough?

MR. ARGENIO: That's a global issue and I'll say this to you--

MS. KOSS: Do we really need a new one?

MR. ARGENIO: I'll say this, that I certainly know everybody likes to use their cell phones and they get agitated when they got a dropped signal, so we're put in the unenviable position that means us having to try to do our best to locate these things in areas where these folks want them but also areas where they have the least visual impact. And I have to tell you to a great extent most of the applicants are very, very cooperative and understanding about concerns you have visually.

MR. CORDISCO: Mr. Chairman, on that particular point regarding when is enough enough, we should all understand that the federal government has preempted our power to regulate these cell towers to a great extent because when an operator comes in and says they have a need and a desire to come into an area, it's not up to the town or within the town's purview to deny them the opportunity to come in.

MR. ARGENIO: By law, we can't do that.

MR. CORDISCO: Right, what the law does though locally is it prefers that they locate on an existing tower rather than putting up an entirely new tower just to serve their needs.

MR. ARGENIO: Understood.

MR. CORDISCO: That's why they're applying to do this.

MR. ARGENIO: Anybody else have a question? Sir in the

plaid flannel shirt, please come forward, just your name for the stenographer.

MR. VRIESEM: My name is Sam Vriesem, Jr.

MR. ARGENIO: What question do you have?

MR. VRIESEM: I have a bunch of questions. Are the specs available for public viewing?

MR. ARGENIO: What's the law?

MR. VRIESEM: Yes.

MR. CORDISCO: Yes.

MR. VRIESEM: This is to the engineer, what's the effective radiated power coming off that tower?

MR. OLSON: Each radio puts out 24 watts and there's 7 radios, up to 7, we start with less but--

MR. VRIESEM: Seven what, panels?

MR. ARGENIO: Seven radios.

MR. OLSON: Seven transmitters.

MR. VRIESEM: And they give up 24 watts.

MR. OLSON: Correct.

MR. VRIESEM: Do you happen to know the modulations?

MR. OLSON: Frequency is transmitted on 20-130 to 20-140 megahertz.

MR. VRIESEM: I'm talking about the modulating frequency.

MR. OLSON: It's a multiple access similar to what Verizon and Sprint use.

MR. VRIESEM: What are the modulating frequencies besides the carrier frequencies? You're going to have all these other frequencies to make the system work.

MR. OLSON: I'm not sure what you mean by that.

MR. VRIESEM: In order for that tower cell phone to work you've got a carrier frequency piggyback other frequencies so some are 2 hertz, some are 17 hertz.

MR. OLSON: The modulation puts the signal onto the--

MR. VRIESEM: It's a 30 megahertz frequency. I know what it is you engineers just mentioned 2130 but there are other modulated frequencies that have to go on there, that's what people don't understand, in order for the cell phone to work there are other frequencies that have to be in there, it just won't work with 2130.

MR. OLSON: I'm not sure where I want, where you're going with that.

MR. VRIESEM: The carrier's 2130, you've got to have other modulated frequencies in order for the cell phone to properly work, what are they?

MR. OLSON: I don't know.

MR. VRIESEM: Are they on the specs? Do you have someplace I can call?

MR. ARGENIO: Okay, I'm going to answer that question, here's the answer to the question. This is not the venue to have a technical debate with the engineer, let me finish, here's what I'd like you to do. That question that you have just asked, reduce it to pen, reduce it to a written form, submit it to Nicole, we'll

get that to this gentleman here in the front of the room and if it's in fact a valid question that has an answer he'll find somebody that can answer it. On to the next.

MR. CORDISCO: On that particular point, the issues regarding the frequencies as you mentioned before are regulated by the FCC, they're not an issue.

MR. ARGENIO: Dominic, I understand that but this is a public hearing and a member of the public who seems to be, seems to be so far informed I'd like to answer his question if we can.

MR. CORDISCO: I'm not suggesting that we not but I didn't want to imply that we have some kind of jurisdiction over their frequency issues.

MR. ARGENIO: We certainly do not, it's FCC stuff but I'm a public figure and I'm trying to and we have always tried to do our best to inform the public as best we can and that's my way of trying to thank you, make sure you put that in the minutes, Franny, the lady applauded in the second row. I think Mr. Bedetti you applauded too.

MR. VRIESEM: My other questions deal with the same type of thing.

MR. ARGENIO: You know what I want to do? Here's what I want to do, truly, and this is not meant to impune you, sir, what you're asking is going to be well beyond what we understand. Reduce those technical questions to pen, submit them to her and they'll submit them to these folks. And if there's an answer and this is not smoke and mirrors, they'll find an answer and we'll address it at the next planning board meeting, public hearing will be closed but we'll address it.

MR. VRIESEM: No problem, I'll do that. My last

question is you're going to put the antenna that's 12 feet on top of the existing tower, what holds it on there, nuts and bolts?

MR. IAMICELI: It's basically, essentially it's structural steel clamps, bolts.

MR. MORANDO: We did a structural analysis confirming it was appropriate.

MR. VRIESEM: There's no guide wires or anything up there now?

MR. IAMICELI: No.

MR. ARGENIO: Is there a need for guide wires post construction?

MR. IAMICELI: No.

MR. VRIESEM: That's the list of my questions. Thank you.

MR. ARGENIO: Sir, thank you very much.

MR. VRIESEM: Your name is Mr. Argenio?

MR. ARGENIO: Yes.

MR. VRIESEM: I want to ask you a question. I talked to Debbie Green, she said I should ask you but I should call you, it's about Guardian Storage, why they're not going on Snake Hill?

MR. ARGENIO: You can call me at the office.

MR. VRIESEM: What's the number?

MR. ARGENIO: I can't say that here. No, it's 561-5102, ask for young Jerry.

MR. VRIESEM: Thank you, sir.

MR. ARGENIO: Anybody else? The lady in the green sweater, please come forward. Thank you, Dominic, for your comments and I understand and agree.

MS. SHINYE: Midori Shinye, I live at 203 Riley Road. We own the property right by the actually aqueduct where the pipe line runs up to, would you mind where is the Riley Road, where is the aqueduct?

MR. MORANDO: Right there.

MS. SHINYE: And then I don't have that, have question about the frequencies because I don't know basic questions, will the construction have the large trucks are going to be running in and out for how long? I missed the first five minutes so maybe how long is the construction planned?

MR. IAMICELI: It's just an extension so it's not a new construction so you're just going to need a crane to go up there and put the steel so once the steel's up there that only takes a couple days and then the antennas and everything once everything's all set it's not a long process.

MR. ARGENIO: So it's a couple three loads of product and a few days to set the iron.

MR. IAMICELI: Yes, just get the materials.

MS. SHINYE: We don't have to worry about the noise and bulldozers, trucks running in and out for months and months?

MR. IAMICELI: It's not new construction.

MS. SHINYE: So and then you're saying it's an

extension so it will remain what it is right now?

MR. ARGENIO: Plus 12 feet extension meaning up.

MS. SHINYE: But where are those trucks are going in and out?

MR. MORANDO: There's an existing access road so there won't be any changes.

MS. SHINYE: Existing access road from where, Dean Hill?

MR. MORANDO: Coming off I believe Rolling Ridge.

MS. SHINYE: Okay, so that was the questions. But the original representative from the city because aqueduct I believe belongs to the city, New York City, doesn't it? And it's got nothing to do with the city?

MR. MORANDO: No.

MS. SHINYE: It won't affect security with the aqueduct?

MR. MORANDO: No, it will not.

MS. SHINYE: That's all my questions.

MR. ARGENIO: Ma'am in the red coat again, ma'am, your name please?

MS. ROBLES: Annette Robles. I didn't see where actually you're going to put this tower and I live on Rolling Ridge.

MR. MORANDO: We're not putting up a new tower, it's the same tower that's there, just extending the top 12 feet.

MS. ROBLES: Where exactly is it?

MR. MORANDO: This is Rolling Ridge where you live, I'm not sure the tower's back up here.

MS. ROBLES: Okay.

MR. MORANDO: So it would be to the west of the Thruway.

MS. ROBLES: This is not really a question, this is pretty much a statement that I'm going to put out to you. According to what Miranda had stated when is enough is enough? I think it is enough. I totally agree everyone has a cell phone, I'm sure and I have one but not if I have a choice whether the health of myself and my family or cell phone, you can take your cell phone. I don't want it. I don't need it. I don't want to subject my children to this type of radiation and just like back when they said that the lead paint was not harmful, asbestos is not harmful, that other stuff wasn't harmful, we find 50 years later that it's killing us and, you know what, I've had it. I'm done with all this stuff, not only that what's that going to do to the value of my home when I'm ready to sell my home and get the hell out of here? And this, I can't sell it because we have all these towers all over the place.

MR. MORANDO: If I can respond with all due respect, this application reduces creating any new towers and it's, the tower's already there so any impact from the tower itself is already had, it's, this is minimizing all those impacts, that's why this application is actually beneficial.

MR. ARGENIO: Let me just say something, please hear me on this. What he said is very important and I'm not an advocate for these people, I represent the people of the Town of New Windsor, we don't want more towers, I

live in the west end, there's a reason I'm there, just a little bit further out than you, Neil lives out near me, it's because it's pristine and rural, I don't want a tower. So whatever we can do to have less towers I'm for it. Now I know that doesn't mitigate all your concerns but that's my personal statement. Go ahead. Do you have another questions?

MS. ROBLES: No, that was basically it, just scary to--

MR. ARGENIO: Don't, it is scary.

MS. ROBLES: We moved from New York City to up here to get away from all the craziness of the city and then I'm finding these things are happening here.

MR. ARGENIO: Good thing you didn't stop off in Stony Point or Haverstraw, trust me, it's worse down there, trust me. My partner lives down there. Anybody else? Sir on the end in the blue shirt?

MR. HENAGHAN: My name is Denis Henaghan, I actually I have two questions. First would be is there a benefit to the town and the citizens to grant the permit? I don't, I'm just curious.

MR. ARGENIO: Ask your next question.

MR. HENAGHAN: Has any work taken place already in support of this permit? And the reason I ask on my street Rolling Ridge there's been orange conduit pulled and I haven't been able to get an answer from anybody as to who authorized it and why it was done.

MR. ARGENIO: Sir, please answer question number 2 to the greatest of your ability.

MR. MORANDO: To the best of my knowledge, no, there's been no work done. We have to get our approvals before we can get a building permit.

MR. ARGENIO: Sir, we'd have them shut down so fast it would make your head spin. The answer to the first question is yes, there is a benefit to the people of Town of New Windsor and there's Part B to that the first part of that is that obviously everybody uses cell phones and it's going to be better coverage for whatever network they have. This additional 12 feet of height Part B is that when people own a piece of land, yours included, myself included, they have the right to develop and improve that land and install appurtenances on that land, as long as that's done in accordance with the laws of the Town of New Windsor, the FCC and any other regulating body. So anybody in this room you have the right to do what you will with your property as long as you do it by the law. But at the end of day they're here for our review as a group because there may be some specific concerns that we need to address.

MR. SCHLESINGER: I just want to elaborate the answer to that question also going back to what Jerry said just a couple minutes ago, if these people are not able for whatever the reason to build their extension and put another transmitter up there or whatever it is, they may be back in another week or another month wanting to put another tower in your back yard and your back yard and your back yard or my back yard. So what we're trying to do is mitigate that and not wanting to have another tower and maybe just, I say maybe, maybe just the tower that's existing there. So to me, that's a benefit and I understand what you're saying but I gotta call it a benefit.

MR. ARGENIO: That answer your questions?

MR. HENAGHAN: It does. But I'd like, can someone tell me how I can find out who authorized and granted the permission to run the conduit down the street?

MR. ARGENIO: I don't know.

MS. GALLAGHER: I know nothing about it. Nicole got a phone call about it.

MR. ARGENIO: Anybody know?

MR. EDSALL: I don't know anything about it.

MR. HENAGHAN: Nicole got the phone call from me, I have the name of the contractor.

MR. SCHEIBLE: You're talking about electrical?

MR. HENAGHAN: It's orange conduit which I was informed was telecommunications.

MR. ARGENIO: George, anything on that? Do we know what's going on? Is it in the road right-of-way?

MR. HENAGHAN: Pulled underneath my driveway, my lawn, came all the way from Dean Hill Road and according to the crew that pulled it to the cell tower.

MR. ARGENIO: Slick guys.

MR. HENAGHAN: And the company that did the work is called Cross County Telecommunications Contract Towers and they had a phone number on the truck of 518-6643-1333.

MR. ARGENIO: Sir, let me ask you directly, this had nothing to do with you?

MR. MORANDO: No.

MR. ARGENIO: Hands down?

MR. MORANDO: As far as I know, I've never--

MR. ARGENIO: No ambiguity?

MR. OLSON: What it sounds like is possibly bringing fiber up to the site, not for us, I mean we maybe use it.

MR. ARGENIO: So maybe possibly, sir, another operator on that tower may be bringing some service to that tower? That is possible.

MR. CORDISCO: Maybe upgrading the line, there are several existing cell providers that are already on that tower.

MR. ARGENIO: I'm going to go out of school. George, is there anything we can do to chase that down?

SUPERVISOR GREEN: I'm surely going to find out if there's been a road opening permit out in the road.

MR. HENAGHAN: No, he pulled it from the corner of Dean Hill and Rolling Ridge and that conduit is exposed along there.

SUPERVISOR GREEN: That conduit's been exposed.

MR. HENAGHAN: Since at least January.

SUPERVISOR GREEN: Probably before that.

MR. ARGENIO: So he's on private property is what I'm hearing?

MR. EDSALL: Sounds like he's in the right-of-way.

MR. HENAGHAN: He pulled the conduit under my front lawn.

SUPERVISOR GREEN: I think, don't hold me to it, I think that's got to do with fiber optic network. I don't think it's got anything to do with the cell

tower. However, call my office in the morning, I certainly will find out if there's a road opening permit.

MR. ARGENIO: That's the Town Supervisor in case you didn't know.

SUPERVISOR GREEN: We'll find out if there's a road opening permit and find out what it is.

MR. HENAGHAN: Would one of the other carriers have to get permission to do the work?

MR. CORDISCO: Not from this board.

SUPERVISOR GREEN: They would have to get permission to open the road and we'll find out if there's a road opening permit.

MR. HENAGHAN: Okay.

MR. ARGENIO: Thank you, sir. Anybody else?

MR. STEIDLE: Yes.

MR. ARGENIO: Bill, want to stay focused here?

MR. STEIDLE: My name is Bill Steidle, I live at 575 Jackson Avenue. I have two procedural issues that I'd like to raise and one regulatory comment that's been discussed a little bit tonight. First procedural issue I believe the town requires a 10 day public comment period. The notice appeared in the April 20 issue of The Sentinel. My way of counting 10 days public comment which is the minimum public comment period has not been provided.

MR. ARGENIO: What does that mean? What kind of statement is that?

MR. STEIDLE: I believe in your regulations--

MR. ARGENIO: The public comment period is still open, what does that mean?

MR. STEIDLE: You have a comment period to notify the public of the hearing minimum required notice period is 10 days.

MR. ARGENIO: Nicole, have we met that requirement?

MS. JULIAN: They sent out on the 19th.

MR. STEIDLE: Now the date of the notice is fine, look, I'm not going to argue. I'm just going to give you my suggestion that that requirement has not been met. It appeared in The Sentinel on the 20th of April, now any way you count people that utilize The Sentinel as an official newspaper to learn of hearings they have not been given the minimum 10 day period. Now last time, last meeting I went to I hear the applicant was hell bent on having a hearing as soon as possible, that's fine but you still have to meet the minimum requirements.

MR. ARGENIO: Go ahead, next thing.

MR. STEIDLE: Second issue the content of the notice I have The Sentinel, it appears that there was a printing error by The Sentinel in that the legal notice does not provide any information whatsoever about the project. It has a missing section and basically says public hearing on April 28, et cetera, on approval of the proposed, for the proposed MetroPCS, there's no discussion of cell towers, telecommunications or anything else in The Sentinel. Now I assume that it's a printing error by The Sentinel but again, the public is shortchanged both time wise--

MR. ARGENIO: What's your next issue?

MR. STEIDLE: The next issue is a regulatory comment. You can choose to consider it or not. Last meeting I attended you discussed this as being a non-conforming use. You indicated a 25 percent threshold whereby an increase in this non-conforming use up to 25 percent appeared to be acceptable or at least that was my, I could not ask questions but it was my reading and I did read the minutes. Now I will give you my opinion that a non-conforming use should not be increased, it should be decreased or eliminated and you should not be swayed by the applicant saying I'm going to bring in a worse project if you don't approve this.

MR. ARGENIO: Hold it, hold it, hold it. Nobody indicated that anybody on this board has made their decision.

MR. STEIDLE: I'm not suggesting that.

MR. ARGENIO: Let me finish, on the finality of that statement. Neil said in an opinion these are his thoughts so I agree with you fully, I agree with you fully.

MR. STEIDLE: I don't have any problems with different opinions, all I'm saying is I was in your chair as a regulator for a good many years, I had developers come in one after another and say if you don't approve this I'm going to bring in a worse project. My answer was always the same and that was my advice to you is not to bring in a worse project but to bring in a better project. And I say to you folks do not increase non-conforming uses, decrease or eliminate non-conforming uses, this thing would not be approved today, it's in a bad location, it's, it would never ever be approved, it would not meet your zoning, wouldn't meet your--

MR. ARGENIO: Bill, we know that, yes, yes to all.

MR. STEIDLE: Oh, so my request to you is number one, I believe you should remedy the procedural errors or the procedural inconsistencies and I'm not suggesting they're yours, they may very well be The Sentinel's or whomever but there should be minimum public comment period of at least 10 days.

MR. ARGENIO: Got that part, yes.

MR. STEIDLE: And a reasonable notice as to what's proposed. And then secondly, once that occurs, I would give you my opinion that the project should not be approved as an increase in non-conforming.

MR. ARGENIO: Stay there. Two things, counsel and Edsall, more counsel than Mark, the notice that we sent out I don't know the answer to this is the verbiage from that sufficient enough to describe what this public hearing was about tonight?

MR. CORDISCO: Well--

MR. ARGENIO: I'm not asking the audience, please don't speak out of turn please, you see where I'm coming from? And you saw how this meeting is going.

MR. CORDISCO: I would like to review first the notice that was mailed to the neighbors.

MR. STEIDLE: I don't know what was said in that, all I have is The Sentinel.

MR. ARGENIO: Bill, it's okay, I have to tell you quite frankly let me read it to you, site plan permit for proposed MetroPCS located at X, Y, Z address. I don't know now Steidle has not mentioned and I'm shocked that he hasn't cause I know him to be a thorough, capable fellow the whole address thing which may or may not Bill be an issue. So I'm, we are and Dominic and Mark

are a little anal about procedural stuff and I have to say under my tutelage here under these folks and other folks, my predecessor included who sat in this seat for many years before me we've indoctrinated that procedurally you need to be thorough and competent, I'll use maybe a two sentence commentary on the date thing. Somebody made a mistake, I don't know who made a mistake but somebody made a mistake. As such, Bill is right, the timing doesn't work and by law, the timing has to work so what I'd like to propose, Dominic, tell me if this is appropriate or not or no, tell me if this is lawful or not and we'll satisfy the requirements, can we table this and just hold it pending addressing the second issue about the verbiage?

MR. CORDISCO: Correct.

MR. ARGENIO: Can we do that?

MR. CORDISCO: Certainly.

MR. ARGENIO: That's my proposal. As always, it's good commentary.

MR. STEIDLE: Can I nitpick one more thing?

MR. ARGENIO: Hopefully it's relevant.

MR. STEIDLE: The applicant is listed on the New York Stock Exchange as MetroPCS Communications Inc. The communications obviously gives some indication as to what the project is. Now the notices indicate MetroPCS, now that's fine if that's the applicant, fine, but all I can tell you on the stock exchange that's not the full name of the company that's proposing this project.

MR. ARGENIO: You characterized it correctly.

MR. STEIDLE: Thank you.

MR. ARGENIO: Bill, good points, thank you very much.

MR. STEIDLE: Thank you.

MR. ARGENIO: Okay, we need to do that, you agree?

MR. CORDISCO: Yes, I do.

MR. ARGENIO: You guys agree?

MR. SCHEIBLE: Yes.

MR. SCHLESINGER: I agree but we have people here now we're going to continue with.

MR. ARGENIO: Why wouldn't we? They're here now, let them say their piece, quite frankly, at the continuation of it if nobody's here that's fine, we'll do our bit and if they're here we'll do our bit but as I said in the beginning, we're not going to engage in rhetoric and redundancy, that's not the deal, everybody's too busy for that. Anybody else have a comment? Madam, if we have time we'll come around again. Who else has a comment? Anybody new? Orange jacket.

MR. CHIN: My name is Ray Chin, I'm also a resident on Rolling Ridge and I also actually know where the tower is, I walk my dog up there. As the prior person has spoken you can see the tower so whether it's an eyesore for some people or not it's there. My first question is what's the actual benefit to the applicant in increasing the height and range, what's the layman's term that we can all understand that we're getting increase cellular coverage? The reason I ask that is that MetroPCS is the applicant and I see a lot of Verizon activity there so are you a sublease of that tower?

MR. ARGENIO: Verizon probably has spots on the tower.

MR. CHIN: So are there multiple users of this tower?

MR. MORANDO: Yes.

MR. CORDISCO: This is not Verizon.

MR. CHIN: I understand, I totally understand the applicant.

MR. MORANDO: It's a separate wireless carrier so just like Verizon and Sprint there's MetroPCS.

MR. CHIN: There are multiple users of this particular tower cause--

MR. MORANDO: Yes, there are additional carriers on those towers so there are like I said there's Verizon--

MR. CHIN: They also benefit from the increase.

MR. MORANDO: No, they don't.

MR. CHIN: So if we're going to increase 12 feet I think I understood that there are multiple users of this tower who are sending their signals out to cover their own network, the 12 feet is only for MetroPCS's benefit and in what way?

MR. MORANDO: When the FCC issued MetroPCS a license to be a wireless carrier, it's new so right now we have no coverage in the Town of New Windsor. By getting that license, the FCC determined that a public benefit would be for MetroPCS to be another service provider that's part of the designation receiving the license, the benefit is the competitiveness of another carrier for people to choose from.

MR. SCHLESINGER: I think that you're maybe

misunderstanding his question but if not you can correct me.

MR. ARGENIO: Excuse me, let him go because I think he's going to segway in what Mr. Chin asked, I think.

MR. MORANDO: So for the actual people using cell phones they have another carrier in this area but the FCC makes that public benefit determination when they issue the license.

MR. ARGENIO: Maybe I was wrong.

MR. SCHLESINGER: I think the question may be and I'm just surmising your need to put some sort of the equipment, can you put your equipment lower on the tower?

MR. MORANDO: Oh, no.

MR. SCHLESINGER: You can't put it on lower?

MR. MORANDO: Well, what we did, the first priority is to co-locate, that's per the code, per the wireless regulations. By co-locating, you're avoiding a new tower. We, our first attempt was at the lowest possible height which would be 85 feet, at 85 feet the coverage isn't, it doesn't provide the coverage that we would need.

MR. CHIN: What's the current height now?

MR. MORANDO: It's 152.

MR. CHIN: Your minimum request was for 85 which wouldn't give you enough coverage.

MR. MORANDO: No, we would require another site so now you're talking about two sites, possibly three at least.

MR. CHIN: So now--

MR. MORANDO: So that reduces that need for other sites.

MR. CHIN: We're going up 67 plus 12 because you minimally said 85 would be the minimum, not good enough for that coverage so now you have to go up to 152 plus 12?

MR. ARGENIO: No, the existing tower is 52, they're adding 12 feet to it, I don't, look, I don't want to twist words around, that's not what we're here for, I'm not an attorney, you might be, I'm not.

MR. CHIN: I'm not, I just because when you make a statement of 85 feet not getting enough coverage the first question is what's the benefit and range.

MR. ARGENIO: What I want to do is, here's what I want. Here's where Neil was going, look, I want to get away from the rhetoric, explain to Mr. Chin and the audience in layman's terms this tower, what is the distance and how far, how does it work, that type thing.

MR. OLSON: Sure, we have a coverage map that can show the difference in coverage but what it comes down to is there probably could have, could have been some height in between that would have been sufficient but there's no space on the tower in between, there's antennas that run from above the 85 point all the way to the top of the tower with no space in between in various carrier feeds, there's no available space in between so the option is we're going below everything else which at 85 feet or extend the tower so what we do is we model the coverage of each of those options and that's what I can show you here. There's three maps here do you all want to see this too?

MR. ARGENIO: Yeah, see if you can turn it sideways a little bit. Dan, you're out of luck or you have to move around.

MR. OLSON: The blue area represents the coverage from surrounding sites in the area.

MR. CHIN: Other towers.

MR. OLSON: Other locations that we're planning on being at in the area. The red dot represents the location of the subject site, the pink outline represents municipal boundary, New York State Thruway is running just to the east of the site, the site is just north of 94 and the coverage from the proposed site at 162 foot height is shown in the green area. Now, if I back off to the location at 85 foot height significantly reduces that and that's because the blockage from trees, the hills and this is our computer modeling program that takes into account the terrain, the foliage, the height and there's a major difference between the coverage of the two and that's why we chose to go above. We typically don't want to go above for example Toleman Road site which we are planning to be at, also we're going lower on that because it didn't make any significant coverage difference to go higher. In some cases, it does make a difference, in some cases it doesn't.

MR. CHIN: The engineering aspect--

MR. ARGENIO: Mr. Chin, please, if you're going to talk, address the board.

MR. CHIN: Okay, so the engineering aspect is when you did the study, how did you know that that amount, that height would have been optimal to give you that additional coverage?

MR. OLSON: It wasn't a choice, I could have said well

exactly what height does this coverage open up you get above a certain amount of the trees and sometimes it gets bigger between by a small increment. The issue is there's no available space on the tower in between, I would guess that if we had 140 feet on the tower probably I didn't test it but probably would have worked but the point is there's no space in between.

MR. CHIN: Because there are other carriers that lease that space?

MR. OLSON: Correct.

MR. CHIN: You've said that you've studied the other carriers' range and you're trying to mirror that?

MR. OLSON: Not necessarily trying to mirror that but there's a reason they're on this location, it's on top of the main tower on top of a mountain, it's isolated, there's reasons, it's a good site, we have also looked to go on a site where there's existing carriers and that's what the town ordinance prefers.

MR. CHIN: I can't dispute that because it's been there a long time before the development but there is no way of piggybacking on the other carrier's space because that's their space, it's not like you can attach, send these two rabbit ears in these directions and yours is this way and Verizon and Sprint.

MR. OLSON: Carriers share structures but not the same.

MR. CHIN: Who owns the structure at this point?

MR. OLSON: Crown Castle.

MR. CHIN: Crown is leasing to all the carriers?

MR. OLSON: Correct.

MR. CHIN: Presumably Crown got the application to build the tower, got all the bids in to get services.

MR. CHIN: You're leasing from Crown so Verizon may be just doing work on their own aspect of that because we see no other service going in.

MR. OLSON: Verizon land line and Verizon Wireless and Verizon Wireless is on this tower.

MR. CHIN: Do you see making that there will be maintenance that you're required to do?

MR. OLSON: Maintenance is typically once a month, a technician goes to the site, certainly the site's monitored 24 hours a day, if there's ever the power goes out or something, somebody may be dispatched but typically, it's a routine maintenance.

MR. CHIN: These are subcontractors?

MR. OLSON: No, they're employees.

MR. CHIN: Is this, is this a main tower of transmission? I understand I'm not technical but there are extenders that can help you reach the coverage.

MR. OLSON: You may be thinking of the repeaters so but the only difference of a repeater to a site like this is how you get the signal. Our signal comes to the site on a fiber or a wire to our equipment and goes to the site and transmits out so your call would go to the antennas, to the equipment and wired back to our switch and out to the public phone network.

MR. CHIN: You're going to be using existing fiber or you have to add that to get your coverage in there?

MR. OLSON: I believe it exists at the site but I'm not sure. If it doesn't exist, we would bring in the

necessary but I believe it exists but I'm not sure.

MR. CHIN: Well, I'm thinking it's Verizon because my predecessor mentioned somebody was pulling wires and has gone through a few properties and cut across on this access road. I don't know how this relates to you but you're using fiber that's already there or if you think you have to add, you should know by now, right? I would think there's something because if I'm mistaken we don't have FIOS access so Verizon has to come in and put in fiber, that's what I'm thinking. But is there fiber already there to support the other carriers that are there that are piggybacking off?

MR. IAMICELI: Telco Power is there.

MR. CHIN: They're using this fiber network to get there?

MR. IAMICELI: Yeah, it could be copper, I don't know if it's exactly a fiber.

MR. ARGENIO: Let me step in. We're not going to go all night. Everybody has a few minutes to speak and, let me finish, at the interest of efficiency, I want to give anybody else the opportunity to speak if they'd like. So Mr. Chin, certainly take another moment if you have a couple of other questions, please ask them but I just want to keep it moving.

MR. CHIN: Because the point is that you have to bring more that's in the permit request and more time and work, it was a little disruption when we had this case which we're not aware of why we're doing this other pulling of wire. My last question is the long term effect on the community, actually, I have two more questions, sorry. We have a power line that's going through Brown's Pond all the way across and the tower is probably very close to that, the effect of the tower is that magnified with the power lines right behind it

if you're extending? I don't know what the effect is with 12 feet, it may be minimal?

MR. OLSON: There are two separate entities, electrical transmission wires and this site are two separate things and there's space between them but there's no interaction between them.

MR. CHIN: So for cell towers and that goes for all the carriers, the effect, long term effect, I haven't seen long term effects, how long has that tower been here, do we know?

MR. ARGENIO: Pre-existing, that was not your question, you asked about the interaction between the electric and the cell phone towers.

MR. CHIN: Right, the question would then follow up is the impact of these cell towers on the community long term? There's no study that you might be aware of but I'm wondering is there a study that would tell us what the impact is?

MR. ARGENIO: I'm not aware of any.

MR. CHIN: The last point maybe not a question is we have a highway maybe in the future, isn't it better to then maybe have co-locate these towers along the highway closer to the highways as opposed to residential?

MR. ARGENIO: That's a generic point about future towers and we'll certainly take it under advisement.

MR. SCHEIBLE: This tower was a future tower when the tower was put up there was no one around the neighborhood, the tower was there first.

MR. ARGENIO: Anybody else have a question? Yes, ma'am?

MS. YOUNG: Marina Lee Young. My question is for this tower is going up 12 feet, is that going to be the maximum for this tower? Will there ever be another extension on top of this tower?

MR. MORANDO: I can't address applications in the future, I mean if somebody comes to this board and submits an application that's not really part of this application, so I can't really respond to that.

MS. YOUNG: Cause I'm wondering structurally if it keeps going higher.

MR. MORANDO: I would assume the board would require a structural integrity analysis and if it met it, it met it, if it didn't, it didn't.

MR. ARGENIO: We're here to focus on these folks.

MS. YOUNG: No, I was just curious if there was a possibility that it could possibly go higher and structurally whether wind or inclement weather can cause some sort of structural damage to the building so that it could possibly fall over?

MR. ARGENIO: Mark, any thoughts on that?

MR. EDSALL: No, that's part of their analysis and if there are any future modifications proposed, there would have to be another analysis.

MR. ARGENIO: Okay, ma'am, thank you. Anybody else? I'll accept a motion we table the public hearing.

MR. SCHLESINGER: Motion made.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that we

table the public hearing pending the direction of this faux pas, as it were this, we don't know if it was The Sentinel or if it was our people in the Town Hall but the notification was sent out nine days ago and not the requisite 10, I'll have a roll call.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you very much everybody. And let me just say thank you everybody for being respectful and thank you, ma'am, for your passion in the red coat and these were all very good questions and everybody was kind enough to respect my wishes and our wishes in that nobody was redundant. And thank you Bill for clearing that thing up cause I certainly would not want to open this town up to an Article 78 at a later date. That said, we're going to see this again members, as I said earlier, it's a pretty similar application from our point of view, not from the public's point of view. Do you guys want to see anything or ask anything? They'll be here again. Anything? We'll see you again and again, thank you to everybody in the audience.

MR. MORANDO: As far as the notice is going forward we do another?

MR. ARGENIO: Dominic needs to check, you may have to do that but let him check it and if you need to do it you need to do it. Quite frankly, what I'm seeing here I don't know who crafted it but it's like saying ABC is going to do some work and it's generic.

MR. CORDISCO: We'll take care of it.

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MR. EDSALL: We'll straighten it out.

REGULAR_ITEMS

ANTHONY'S_PIER_9_LOT_LINE_CHANGE_(10-13)

MR. ARGENIO: Next is Anthony's Pier 9 lot line change followed by the combination of the, combining of the resultant R & D Properties. The plan was reviewed on a concept basis only. I see Mr. Bonura and his associate here.

MR. J. BONURA: Also Mr. Bonura.

MR. ARGENIO: Mr. Bonura Senior and Junior?

MR. M. BONURA: I'm Michael Bonura.

MR. ARGENIO: Who's your engineer, Hayes?

MR. M. BONURA: Yes. In terms of the lot line change what we're looking to do is procure an additional approximately 25.

MR. ARGENIO: Excuse me. Mark, I have one plan for this, is that appropriate?

MR. EDSALL: The first application is the lot line change and that's a single sheet.

MR. ARGENIO: Never mind, I have two plans, go ahead.

MR. M. BONURA: Sorry, we're looking to purchase roughly 25 feet of land. The reason I say roughly is because the property line moves and we're going to be straightening it out, it's 25 feet of land from our neighbor.

MR. ARGENIO: Can you put the plan on the easel?

MR. SCHEIBLE: So we're all attuned.

MR. ARGENIO: Turn that easel towards us and show us where that property line transfer is.

MR. EDSALL: This one is colorized so it's special.

MR. M. BONURA: You're a good man.

MR. EDSALL: The crosshatched one is the line being eliminated. There's a rental fee.

MR. ARGENIO: Show us what you're extinguishing and what you want to create.

MR. M. BONURA: Absolutely. The existing property here is where the Anthony's Pier 9 site sits, the existing lot line is this one that you see, the dashed lines that my friend color coded it for us, greatly helped us, we plan to extinguish that lot line and move it over this way about 25 feet to the right or the north.

MR. ARGENIO: And this is in support of some change that this is your dad, you and your dad want to make on the Pier 9?

MR. M. BONURA: We want to build a new exterior garden on the north side of the building and we just don't have enough space.

MR. ARGENIO: This is mechanical, go on to the next application. Am I missing something here, guys? Do you guys have any questions on it? The meat is in the next application. Go on to the next one.

First I'll accept a motion to waive public hearing.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that we

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waive the public hearing.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

ANTHONY'S_PIER_9_SITE_PLAN_(10-14)

MR. ARGENIO: Relative to this as I said I don't mean to blow this off, the deal is there, the lot line thing is large, I don't mean to minimize but it's largely a mechanical thing. Joe, you have to follow the law and as I said, the meat of this is in the site plan application. The lot line application, there's some very minor comments, yeah, I mean please add New Windsor project number to the approval box.

MR. EDSALL: Those are always on the first comment because they don't have the number when they make their application.

MR. ARGENIO: Let's focus on the site plan cause that's where the planning board really--go ahead.

MR. M. BONURA: Yes, we're looking to alter our existing site plan to install two new exterior gardens that don't currently exist, one of which is going to get installed in the area that we just discussed with the lot line change, the area to the north of the existing properties, the parcel in between ours and the R & D property basically all we're doing is purchasing the additional 25 feet so we can grade off the site to a reasonable grade and put new a outdoor garden to the north of the building that will operate as a new exterior photo area, wedding ceremony area going forward. The other garden that we want to add is going to be installed in what's currently our parking lot just to the south of the building completely internal to the existing site. In order to put that in, we had to change the way the driveway works, the way the parking lays out because we're taking away roughly 30 feet of the parking lot to make that happen. So we have altered our parking plan as such we have moved the driveway with the 30 foot access for the fire department.

MR. ARGENIO: Which you don't have now. Do you have that?

MR. J. BONURA: Have what?

MR. ARGENIO: The 30 foot access for the fire apparatus not in this application?

MR. J. BONURA: We have the same access that we had before.

MR. ARGENIO: And thru road 30 feet wide?

MR. J. BONURA: The same as we had before. Actually, we have more, we eliminated parking spaces, we are actually better than what we had before.

MR. M. BONURA: That's truly the gist of the parking lot, we're realigning the parking lot because we're taking the 30 feet adjustment to the building, that's truthfully the bulk of the change to the site plan. We moved that over assuming we get permission.

MR. J. BONURA: Let me explain why we're doing this, okay, because of the economic changes in our economy, our customer, Pier 9 customer has basically almost vanished, there are no more home equity loans, the sources--

MR. ARGENIO: That's for the people with the big weddings.

MR. J. BONURA: For the weddings, yes, all the not-for-profits, all the numbers are down, okay, and basically our business got clobbered. So what are we doing now, we used to have what we currently have three rooms, we have the most, the Imperial Room, the big room, we have the Presidential Room and we have the Regency Room. We're eliminating, we're going down to two rooms and giving each room another room, we're

giving the people more luxuries and we're going after a different clientele. We're going after more affluent people, these people want these amenities, they want these outdoor gardens, we don't have that. The inside of the building is fine but we don't have the outside, we don't have the lush gardens where they can go out and take their pictures. So that's what we're doing with, we're cutting down the occupancy, yes, the occupancy inside going to two rooms but we're keeping the north building and the south building, you're going to come in, either go left or right, the room is going to have a beautiful outdoor garden, you're going to have an indoor wedding room, a ceremony room, cocktail room and a dinner room. We had six rooms, it was split up into three suites, a cocktail and dinner room, now we have six rooms split up into two suites, each suite now has three rooms but we need that beautiful outdoor garden that they have in Jersey, Burgen County, Westchester, down on the river, okay, I don't have it and I can't give it, get the customers, so this is the reason that we're spending a lot of money to do this.

MR. ARGENIO: You stopped short of saying a fortune.

MR. J. BONURA: It is, it is probably we're going to spend here probably half of what the place costs us on landscaping, okay, to make it beautiful. We're going to do a lot of things, basically everything is done outside, it's all outside work and we needed the 25 feet because we just didn't have enough space on the outside to do the garden, it was too small. We talked our neighbors into selling us approximately 25 feet, that's what we're doing, we have plenty of parking, we've met the requirements.

MR. ARGENIO: Excuse me, Mr. Bonura, just one second. Mark, I just want to hit the parking thing for a moment. Mr. Bonura says he has plenty of parking, it's kind of an odd use for us as a planning board, typically it's a restaurant and, you know, it's got to

have certain amount of seats, certain amount of stalls, catering hall, it's a catering hall.

MR. EDSALL: It's one per three, well, the reality is the calculations that are in the code are a guide. We hope that they work, in every case we review a site plan here, you've got specific knowledge because the place has been in operation for years.

MR. ARGENIO: If you had to guess what percentage.

MR. J. BONURA: The room that we're eliminating seats 200 people.

MR. SCHLESINGER: You can have right now three affairs at one time whereas now you can only have two so you're not increasing the necessity for parking.

MR. J. BONURA: No, we're decreasing.

MR. ARGENIO: These are two bigger affairs.

MR. J. BONURA: Same size, they can't be any bigger, what we're doing with the third suite we're taking one of the each of the rooms and giving it to the other suites as an indoor ceremony room.

MR. ARGENIO: Understood.

MR. J. BONURA: We're eliminating a party which also our more affluent customers like that idea of less parties going on at the same time.

MR. ARGENIO: Joe, I've been in your place, I couldn't agree more with that, I have to tell you, I don't know you but I couldn't agree more. I've been there plenty of times, nothing worse than hearing the thump of the disco on the other side of the wall when you're over here trying to talk about business with Mark Edsall.

MR. EDSALL: Finishing the answer, they're providing us for the record the mechanism by which they're going to decrease the intensity of the use. We know that it has functioned with all the three parties at once, it's been tight at times, it's been full but now it's gong to decrease. We asked him at the workshop to consider the 30 foot lane since that's a newer requirement and can only help the traffic flow and they have accommodated that in the revision and the calculation that they have submitted. I do have to verify seating numbers so the plan is accurate but they have provided a calculation that shows they have in excess of the guidelines.

MR. ARGENIO: Two questions, first one, one word answer. How many stalls are they losing?

MR. EDSALL: I have to tell you two words, don't know.

MR. ARGENIO: Put a hyphen in the middle. Joe, do you know how many stalls are you losing?

MR. J. BONURA: Parking spots?

MR. ARGENIO: Yeah.

MR. J. BONURA: Thirty.

MR. M. BONURA: To build the garden we're losing eight to add the 30 foot accessway it's roughly 30.

MR. J. BONURA: Just losing the parking along the building.

MR. M. BONURA: Roughly 30.

MR. ARGENIO: Mark, you have reviewed the use and the proposed parking and you find that to be consistent with the code or better than what we require, is that correct or am I assuming that?

MR. EDSALL: Yes and comparing numbers based on the 200 seat reduction, that's a decrease of around 70, 68 space demand and they're saying they're only losing 30 which means you're actually gaining spaces on a calculation basis.

MR. J. BONURA: Let me just say this we meet the parking requirements for the three rooms, we met them already but we're, no, I'm just saying that we're making it better, we're making it better all around.

MR. M. BONURA: As a point of clarification, sir, the additional sheets that you have there we just included the landscaping plans as a guideline, even though they're not part of the site plan approval just so you can see what we're doing.

MR. ARGENIO: Most of the stuff and I think the board would look at most of that stuff as internal site appurtenances and you guys have every interest, more of an interest than this board does to make that as lush and gorgeous as you could.

MR. SCHEIBLE: Are you changing the entranceways around?

MR. J. BONURA: No.

MR. M. BONURA: The only thing we're going to do is make them prettier with some new plants.

MR. ARGENIO: I want to and guys, please, I feel like I'm doing all the talking, one of you guys want to jump in please jump in. I want to hit a couple things, I looked at the plan here briefly, the drawings that I have for the wall that's somewhere in the back or side, Mark has a comment about this, Joe, about the SMU wall and I need to tell you that this board for the past pick a number five or seven years has looked very

unfavorably on these dry block SMU walls at heights above five, six, six and a half feet because there are issues and I'm not going to get into them so if you would consider it I think it would be good for everybody here for you to take a look at an alternate wall that you can use, possibly a gravity wall or something of this nature, the money is very similar, very similar if not the same, if you could look at that that would be really good because--

MR. J. BONURA: I've already investigated that.

MR. M. BONURA: Actually, we're in the process, we're looking at three separate possibilities, one is a poured concrete wall which is probably going to be cost prohibitive, option two is the large block gravity walls.

MR. ARGENIO: Who are the vendors?

MR. M. BONURA: Readyrock.

MR. ARGENIO: Lot of these guys make them.

MR. M. BONURA: The people that the contractors that we have spoken to are recommending Readyrock system and it looks like it's a good possibility that it might be the way to go, if we go with the standard dry laid block system, we're going to exceed all of the engineering requirements in terms of the geogrid lengths and everything else.

MR. ARGENIO: It's not just the engineering requirements, it's the fact that if you do do that wall and I'm not telling you you can't what I'm telling you is that we're going to impose substantial engineering bonding and certification requirements on that wall for the future because it's holding something up, it's either holding the other guy's property up or your property up. If it's holding your property up and it

falls, it falls on somebody else's property. If it's holding the other guy's property up and it falls, his property falls down. So you need to know that those requirements are substantial. And we have been doing that for a few years and there's been problems with these walls, not saying they're bad but I'm saying there's been issues.

MR. M. BONURA: Would we avoid a number of engineering requirements were we to use the Readyrock system?

MR. ARGENIO: No, the only thing they, let me ring your father's bell, you'd avoid a number of engineering expenses.

MR. M. BONURA: Okay.

MR. ARGENIO: Okay, let's get away from that. I'm going to poll the members, the neighbor is engaged in the conveyance of the property, I mean I don't know why we need to talk about this other than the fact that we're obligated by law. What about does anybody see a need for public hearing?

MR. SCHLESINGER: No.

MR. ARGENIO: I'll start with you, Danny.

MR. GALLAGHER: I don't believe we need it, he's selling the land to him.

MR. ARGENIO: He got his piece of the Bonuras already. Henry Scheible?

MR. SCHEIBLE: We're looking at an area where it just there's only two people that really actually are involved.

MR. ARGENIO: And they gave him the property.

MR. SCHEIBLE: There's no reason to go for a public hearing.

MR. BROWN: No.

MR. ARGENIO: Thank you guys. I'm under the impression Mark has told me that he's already forwarded this to county so that will save you a little bit of time, Joe. For the benefit of the members and again I certainly don't want to minimize anything but this is your a typical site plan, typically we have parking lots and curbs and sidewalks and stuff to look at, this is very basic and simple.

MR. SCHEIBLE: The only reason it's simple is because it's all there, they're not really actually adding on to the building, the outside, this just over in this area where the gardens are going to be, that's the only difference they're going to do.

MR. J. BONURA: We're not touching the buildings at all, just gardens.

MR. ARGENIO: Mr. Bonura, this parking the overflow parking to the south that does exist?

MR. J. BONURA: That does exist, yeah.

MR. ARGENIO: I've been there, I've had to park in Cornwall.

MR. J. BONURA: Only when you have--

MR. ARGENIO: A Bill Larkin function.

MR. J. BONURA: --a Bill Larkin function, a builders' expo. Okay, we're coming up with a Purple heart dinner in June, I cannot use my paved parking for three weddings, we cannot use it, we have too much, that's only for these events that bring in 100 vendors.

MR. ARGENIO: Let's not kill this, Mark or Dominic, what else do I need to do? Am I missing any procedural items?

MR. CORDISCO: As you mentioned, it's gone to the county so that's already in the works. If the board's inclined to waive the public hearing, you should be clear and waive public hearing for both site plan and subdivision.

MR. ARGENIO: I'll accept a motion to that effect.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that we waive the public hearing.

MR. EDSALL: That's going to be listed under both applications individually.

MR. ARGENIO: Yes, I understand.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. CORDISCO: That's it at this point, we have to wait till we hear back from the county and as soon as we do, we can place them.

MR. EDSALL: Could I ask for one clarification for the plans because obviously, they have submitted and you've

got them for reference a number of landscaping sheets with details. Is it the board's desire to have these landscaped plans part of the set for the site plan or are you going to have this for reference, look at it but that single sheet will be your stamped site plan? Just so I know what your desire is.

MR. ARGENIO: I don't see why it would hurt to have that as part of this.

MR. EDSALL: Just fine, we need to know so they can appropriately add this into the set.

MR. ARGENIO: I have one final comment for the applicant. Does anybody else have anything on this? Henry?

MR. SCHEIBLE: What he was just talking about with the plans you can always refer back, yes, I agree with having them all stamped, there's no reason why not.

MR. EDSALL: Do you want these to be stamped as part of the set?

MR. ARGENIO: Sure, why not? Neil signs them, not me. I don't care.

MR. BROWN: Nothing else.

MR. ARGENIO: One thing please make sure when you do this visit that wall, I don't have top wall bottom wall elevations here, I would like to see them and I'd like to see what you're proposing.

MR. M. BONURA: Yes, the top of wall bottom wall elevations are on one of the landscaped plans if you'd like me to show you.

MR. ARGENIO: Show me next time.

MR. J. BONURA: We have to wait for the county's comments if there are any. Do we have to wait for that for the lot line change also?

MR. CORDISCO: Yes.

MR. EDSALL: Yes.

MR. ARGENIO: These will run together.

MR. J. BONURA: We haven't done anything legally with preparing the papers or signing anything, I thought we could do that in the meantime but we'll wait.

MR. ARGENIO: What papers?

MR. J. BONURA: To buy the property.

MR. ARGENIO: Okay.

MR. M. BONURA: The specifics you're looking for are just the elevations on retaining walls that are going to be back there?

MR. ARGENIO: I'd like to know what you're using.

MR. EDSALL: Jerry, they're in the plan set.

MR. J. BONURA: And you want big building blocks?

MR. ARGENIO: I'm not telling you what I want. I'm telling you from an engineering point of view it's referred as a gravity wall.

MR. J. BONURA: I want big building blocks.

MR. ARGENIO: Then use big building blocks, you're a capitalist and so am I, use whatever is your druthers but as I said before, I'm looking out for the people of the town.

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MR. J. BONURA: Thank you very much.

THE GROVE

MR. CORDISCO: As I mentioned before, this is on for continuation of a public hearing, we should also note that we have received correspondence from Saybrook which is the owner of the property.

MR. ARGENIO: Can I introduce them first?

MR. CORDISCO: Of course. I wanted to mention the fact that it's listed as K. Hovnanian but Saybrook is the current applicant.

MR. ARGENIO: Saybrook is the applicant for this application formally known as K. Hovnanian or The Grove as Dominic said Saybrook is the applicant. The application proposes 22 lot zero lot line lots on the approved Grove site plan project. Plan was previously reviewed at the 15 July, 2009 meeting. Sir, your name is?

MR. DATES: Justin Dates from Maser.

MR. ARGENIO: Remind Mr. Dates did not have the authority to agree to one of the several questions. The attorney, Dominic, I cut you off a couple moments ago, did you have something else that you wanted to add?

MR. CORDISCO: Since last meeting and last meeting as I'm sure the board remembers we prepared a memo regarding several potential legal issues in connection with this particular application. And the genesis of that memo is that we had been provided documents in regards to future ownership of these 22 units and how they're going to relate to the homeowners' association. The documents that we were provided however only related to the existing phase of the condominium and did not cover this new area for the 22 lot subdivision. And so as a result, there was some issues in our mind

and in my mind and shared by the board and they were open questions in regards to that since that time, Dan Hayes, principle of Saybrook, has written to the board, you should have a copy of his letter, I received a copy of his letter as well indicating that they had made an error, they supplied the wrong documents, the documents that they need to prepare have not yet been prepared and that he did however in his letter make it clear that these subdivided units will be part of the homeowners' association and will have to pay into the homeowners' association their fair share for the maintenance of the entire facility.

MR. ARGENIO: So now that you have the explanation that no, no, we sent you the long document, Mr. Attorney, and now that you have the benefit of that letter does it seem clear to you that Mr. Saybrook--

MR. CORDISCO: Mr. Hayes.

MR. ARGENIO: --Mr. Hayes of Saybrook has a better understanding and a clear understanding of what his obligations are and he agrees to attend to them?

MR. CORDISCO: Yes, that's correct.

MR. ARGENIO: Just so everybody knows, Mr. Hayes was in town for our last planning board meeting and they wanted to come to the meeting and I didn't put them on the agenda and the reason I didn't was because the agenda was full and everybody knows that come 9, 9:30 everybody's attention span gets a little weak, we all get a little tired and I wanted to receive the same diligent review that anything else. So Dominic was comfortable with him and I spoke with, his conversation with Mr. Hayes and his understanding of the letter from Mr. Hayes and Mr. Hayes has a representative here so I told Dominic tell Mr. Hayes he's not going on the agenda, tell him to go back wherever he came from, California, and he's got a rep here as long as Dominic

you have a good, clear and concise understanding of his position and it's been memorialized in the form of a letter I think the board will be okay with that. So I hope you guys agree with that.

MR. CORDISCO: Just to be clear, I understand what they're proposing at this point and it addresses the issues regarding future maintenance and as far as that's concerned but what has not yet happened and would be a condition of any approval that this board decides to give would be the actual creation of those documents.

MR. ARGENIO: They need to finalize the documents.

MR. CORDISCO: That's correct, we haven't seen them yet, we've been told what's coming and what's coming is standard and reasonable as far as that's concerned but I think--

MR. ARGENIO: Do you have anything else to add in addition to what we've already heard over the past three or four meetings whatever it's been?

MR. DATES: I don't think so, I think Dominic summed up unless--

MR. ARGENIO: No, I don't want redundancy. I think I've made that clear, I hope I've made that clear either that or I was talking Spanish.

MR. DATES: With regards to the documents that are being prepared that's true that has to go through the Attorney General or the state through their review and approval.

MR. ARGENIO: You recognize and acknowledge it has to pass our muster as well?

MR. DATES: Well, we would not like that to be a part

of the condition of the approval.

MR. ARGENIO: No, it will be, there's nothing else to discuss, you want to leave? I mean, if you want to do that, that's fine too but that will be a condition of it, there's no question about that. And I want to be clear, I'm going to say it again that that document needs to pass muster with our planning board attorney wherever we go tonight that will be a condition, I don't want to be ambiguous.

MR. DATES: I understood just, you know, it's reviewed by the state and we wanted to keep it at the state level.

MR. ARGENIO: That's great, that's fantastic, okay.

MR. SCHLESINGER: Isn't there an issue with the common area or the small area to your left?

MR. ARGENIO: Not that I recall.

MR. ARGENIO: Dominic, there's an issue with the rec area that we had discussed, we had some concerns or--

MR. CORDISCO: Yes, what they're proposing to do is to subdivide out the recreation areas so that it's on its own separate parcel and now is that Mr. Hayes has explained it better there's a rationale for doing so right now with the condominium units they're all part of one site. And so when someone has a, when someone owns a condo what they own is basically a share in the overall site and if the entire project was being developed as a condominium then there would be no need for subdividing that lot off the recreation area.

MR. ARGENIO: Because of the separate lots you have to do it, you almost have no choice.

MR. CORDISCO: But the recreation area will continue to

be owned by the homeowners' association. You'll have condo owners in the homeowners' association and you'll have subdivision owners within the homeowners' association and they'll pay their maintenance and the maintenance will pay the taxes on the recreation lot but the lot itself needs to be carved off because the homeowners' association is a separate entity.

MR. ARGENIO: I'd like to unless you guys have something you want to add, I'd like to open it up.

MR. SCHLESINGER: I didn't understand that, sorry.

MR. ARGENIO: You don't understand that?

MR. SCHLESINGER: Nope, if you're going to make it a separate entity, right?

MR. CORDISCO: Homeowners' association.

MR. SCHLESINGER: As a separate tax obligation which to me if that's a tax obligation I'm just thinking of any sort of possibility if it's not maintained what happens?

MR. CORDISCO: Well, the entire homeowners' association which is everyone who owns a unit there has to belong to the homeowners' association. And as part of the homeowner's association the obligation is you have to pay your maintenance and the maintenance goes to pay amongst other things your taxes, the homeowners' association will pay the taxes on the recreation parcel. Is it possible that there's no one in the homeowners' association so there's no one to pay? Sure, it's possible and unlikely, however correct but in that event if there was no one paying taxes no one up there out of all the units that are there paying taxes then the homeowner's association.

MR. SCHLESINGER: I don't understand why it has to be

separate.

MR. ARGENIO: Cause simple fee lots you can't attach it to one of the lots and not the others. Exactly the reason that that document needs to pass muster at the town level.

Please just step forward, at this time we'll need your name and address cause we didn't circulate a sheet. Please raise your hand and be recognized, come forward, please come forward, sir. Your name and address?

MR. FREEMAN: My name is Herbert Freeman, I live at The Grove.

MR. ARGENIO: You live where? Where? What's your address?

MR. FREEMAN: 1101 Balsam Drive.

MR. ARGENIO: What do you have?

MR. FREEMAN: Your name is Mark, right?

MR. CORDISCO: My name is Dominic Cordisco.

MR. FREEMAN: Dominic, you mentioned subdivisions. Now, the new lots, first of all, there's two that have to be completed, there's two units, two buildings that have to be completed from this first division. Maybe the question is to you, is that going to be the same type of buildings that we have now?

MR. DATES: Yes, these two buildings on Balsam still remain to be built and under the original approval.

MR. FREEMAN: They're going to be built the same exact way that the buildings are built not going to be different, they're going to be exactly the same?

MR. DATES: No, they're under the original approval for the full development, full 275 units so they're locked into that approval.

MR. FREEMAN: What I'm asking you is they conform right now? Will the two buildings that still have to be completed on Balsam Drive conform?

MR. ARGENIO: Will they look the same, yes or no?

MR. DATES: Yes.

MR. FREEMAN: You were talking about will they be the same the rest of the units as you build them are they going to be the same?

MR. DATES: Yes, under the original approval as I stated.

MR. ARGENIO: Don't interrupt.

MR. DATES: There was a specific footprint and style of the units that was approved that the developer has to follow. If he wants to change that, he would have to come back before this board.

MR. FREEMAN: Right now they're all going to look alike, the whole place?

MR. DATES: Yes.

MR. ARGENIO: You say the same identical now similar, yes.

MR. FREEMAN: Now, another thing is when you bring up the homeowners' association, these other units besides Balsam Drive, are they going to have a separate--where I live in Florida we have a--

MR. ARGENIO: Your question needs to go this way.

MR. FREEMAN: I like Dominic, that's why, he's a smart guy.

MR. ARGENIO: That's why we keep him around.

MR. FREEMAN: Yeah, see, okay, when I was saying in Florida we have one builder build a high-rise and then we had condos built and high-rise was up first and now the way it is now they have their own board, the condos have their own board and we have a master board for the common grounds, is that what's going to happen or are we going to be one homeowners' association?

MR. DATES: No, the homeowners' association is an umbrella laying over the full site, 275 units. These 22 fee simple lots are being proposed will be annexed into and a part of that homeowner's association. There will be the condo ownership as well as the fee simple ownership will be all part of the one HOA.

MR. FREEMAN: Thank you.

MR. ARGENIO: Anybody else? Your name and address?

MR. MULKEY: Tim Mulkey (phonetic), 105 Balsam Drive.

MR. ARGENIO: What have you?

MR. MULKEY: I have your minutes from February 24 here where Mr. Dates presented everything, I think what he presented was accurate but I think he left out a lot. Couple questions, the 22 lots there are four existing buildings supposed to be in there, will they be the exact same as the buildings on Balsam Drive?

MR. ARGENIO: I thought I asked everybody to try not to ask the same question, let me finish, I thought I asked everybody not to ask the same questions or to try not to. It's my understanding that all the units in there

will be similar. Now, it's also my understanding if my memory serves me I'm getting older, sometimes I don't remember as well as I used to that we require them to do some architectural rendering so this board could see what it looks like. That's somewhere in the Town Hall you have it, somebody has it, all going to be similar, is that correct?

MR. DATES: Yes.

MR. ARGENIO: That's what I want, one word answer.

MR. CORDISCO: Just want to expound a little bit further. Those architectural renderings were part of the original approval. They're not asking nor are they proposing to change those architectural renderings.

MR. ARGENIO: I understand that but the folks seem concerned about it, that's why I wanted to labor an answer.

MR. CORDISCO: It's a condition of the original approval that those buildings be built pursuant to those architectural renderings so they're all as part of the overall development.

MR. ARGENIO: They're obligated to do that per their approval.

MR. MULKEY: I know that the reason I ask is because he said the footprint as you know in your minutes somebody brought up Plum Point and I know that's a sore subject, the footprint is the layout, it may be something that looks very different from what exists right now, correct?

MR. ARGENIO: No.

MR. MULKEY: So when you have a PUD, an individual PUD and there's a new offering plan, wouldn't the new

offering plan now--

MR. ARGENIO: That's the approved document or the document we're considering this evening for approval, that's it, there's the footprint.

MR. MULKEY: So when you take off, so actually those buildings now--

MR. ARGENIO: You can step up and point right out at it.

MR. MULKEY: So these four buildings right here because my unit's right here, so I look right at them, okay, these four buildings right here technically if they're PUDs could be, could go to four different builders to construct each building, correct?

MR. ARGENIO: That's in my mind an utter impossibility cause they are in fact I'm, certainly anything is possible they are in fact the same structure, the same structure.

MR. MULKEY: So this building is on five lots, those five lots could be sold to builder A and he could build a building and next--

MR. ARGENIO: Anything is possible. Let me share with you, Mark I want you to correct me if I misstep, those five lots they're the same building, the lot line goes through the two by fours in the building, they're connected, they're one structure.

MR. MULKEY: I understand that.

MR. ARGENIO: I don't know how five different builders would do it.

MR. MULKEY: Well, it's one building with 1, 2, 3, 4, 5, 6 units so a builder could buy those six lots and

build that building on those six lots.

MR. ARGENIO: Yeah.

MR. MULKEY: Another builder could buy the next five lots and build another building on that lot.

MR. ARGENIO: Correct.

MR. MULKEY: Correct, so you could potentially end up with four different quality projects, correct?

MR. ARGENIO: Alright.

MR. MULKEY: That could be a problem because--

MR. ARGENIO: Not for me and the Town of New Windsor.

MR. MULKEY: That's exactly what I want to hear.

MR. ARGENIO: Because there's a woman sitting right there who's the building inspector, she has a staff that ensures that it meets the Town Code as far as the aesthetics go, there's a document that exists somewhere, let me cut you off. Mark, go ahead.

MR. EDSALL: What I was going to say is that even by the unlikely case that you have four builders, the four builders would be held to the building codes for quality and the four builders would be held to the same standards of a single site plan.

MR. MULKEY: Now, the site plan now as is proposed that we live in for Hovnanian is now gone?

MR. EDSALL: The site plan goes to the new owners.

MR. MULKEY: The reason that we were told or you were told was to gain FHA financing.

MR. ARGENIO: What we were told precisely I think was something along the lines, it will help us get more attractive financing, I don't know if it's FAI or FBI or what.

MR. MULKEY: Do you know if any documentation has been provided because I can't find it?

MR. ARGENIO: I don't care.

MR. MULKEY: Why not?

MR. ARGENIO: Because let me say this again, the law is the law and they're allowed to do certain things with their property under the terms of the code of the Town of New Windsor. At the end of the day if they get their financing for FHA or from you doesn't matter to me.

MR. MULKEY: Okay, now--

MR. ARGENIO: Now, I don't know why I should care about it on behalf of the public or we shouldn't be. Go ahead.

MR. MULKEY: That was the reason that you were given, that was the reason we were given, we didn't know Saybrook existed until two days ago, I guess after your meeting because nobody was informed.

MR. ARGENIO: I understand your concern. I don't know Saybrook, you spent all this money, you don't want your development going to hell.

MR. MULKEY: He doesn't understand the New York or Orange County market.

MR. ARGENIO: Neither did Hovnanian.

MR. MULKEY: But Hovnanian has a national following.

MR. ARGENIO: He didn't follow it here. Go ahead, what's your next question?

MR. MULKEY: The next one is the 50 acre parcel that's being cut off, the reason this gentleman is concerned about why their rec center had to be cut off, what that does when you cut off the rec center to another lot all the existing 37 units plus the two buildings that are not built yet that pay into the homeowner association for that, what it allows Mr. Hayes to do is to take this 50 acre parcel separate and apart from his 22 lots that he's going to sell and sell as one big parcel now they could file a new offering plan with the state and have a whole different type of community there pending approval here.

MR. ARGENIO: You pick up on that?

MR. MULKEY: Those are the words I want to keep hearing, I will be honest with you because I moved up here from Rockland, I grew up in between Monsey and New Square and I'm sure I don't need to explain what I'm talking about, there are different communities that will come in with lots of cash and buy 50 acres.

MR. ARGENIO: Put up fences for Saturday services.

MR. MULKEY: So we're all kind of hit pretty hard with this and that's why everybody here is concerned because we bought into this association--

MR. ARGENIO: Let me say something to you and everybody in the room. Understand something, this board, we've been here for a bit and we can't protect you folks or the people in the town from everything but I give you my promise and I was born here and I have grown up here all my life as a lot of us have, some of us are transplants but most everybody's been here for close to forever, the things that we can do while you're nervous

about this, things that we can do we're looking at, we have these two smart fellas here and I'm not going to share with you any confidential conversations I have with my attorney, our attorney, our engineer but one of the, and again, I don't want to get into too much cause it's borderline inappropriate, one of the things that I said to Dominic early on was Dominic, something's wrong here for me, I don't know, we need to just look at this close and make sure it's in compliance with the law and make sure those folks up there, those few folks up there are protected. Because what we don't need is a car crash, we don't need a disaster. There's plenty of other condo complexes in this town and I don't have a debate, I want to make this statement and if you have any direct questions subsequent to me speaking, I'd love to hear them but direct questions, there's other condo complexes that have been done over the years and years passed and there's been problems and I was on this board, I was a junior member and there was issues and you know what I'd like to think that Neil's been here a while, Danny, Henry Scheible, he predates water, I'd like to think we learned from what's behind us. Go ahead.

MR. SCHEIBLE: What he's getting at and I know what he's getting at he's saying it perfectly well but my own way of saying it there have to be no preferences gained by any new contractor coming in, if he thinks that he has a possibility of changing things no, it's not gonna happen.

MR. MULKEY: That's exactly what we all want to hear. Thank you.

MR. ARGENIO: And if he does want to change it he's going to come here and based on this turnout tonight there will be a public hearing but I certainly know the answer before I have a public hearing, that's the deal.

MR. MULKEY: I don't know if you know if there's an

answer to this, there's an existing board, there's two members of the board and the other three seats are held by now Mr. Hayes because Hovnanian is out of the picture. Does the board have any role or any say or any power in this?

MR. CORDISCO: In what?

MR. MULKEY: In future changes, you know, the 22 units or they have to belong to the HOA but technically they're PUDs so they, you know, change.

MR. ARGENIO: I don't want to get into a lecture about real estate.

MR. CORDISCO: My recommendation to this board will be if they're inclined to improve this subdivision and bear in mind that when you're talking about a subdivision it's not really a truly discretionary approval an applicant shows that they meet the code, they meet the requirements, they have addressed all the technical issues and the board is constrained at that point to grant them subdivision approval provided that there are appropriate mechanisms to ensure that the town is protected, one of the issues for that has been discussed here and is of concern is whether or not these units will participate in the homeowners' association, will be responsible for their share of any maintenance at the site for taking care of sidewalks, rec parcel, all the things that you're doing right now so they're not a burden on you. And back to my recommendation, my recommendation to this board will be that one of the conditions of the approval is that in addition to the Attorney General having to amend the homeowner's association documents to bring these units into the homeowners' association that we see those documents and approve them so that we know.

MR. ARGENIO: So we protect you guys as well as not just the Attorney General.

MR. CORDISCO: So we're not punting to the Attorney General on this particular issue.

MR. ARGENIO: Let's move on. I cannot imagine that anybody has any other questions, given the volume of what he's covered. Ma'am, certainly come up.

MS. SIMON: My name is Gail Simon, 307 Balsam. Just to clarify a couple of things, I know that the FHA is not in the minutes of March 24 but I did speak to Dan Hayes the afternoon of the meeting of April 8 and I also spoke to the town attorney in Ramapo where you come from and I come from and he's also the head of zoning in Ramapo and all it means the FHA loans that the people who are coming into the fee simple area--

MR. ARGENIO: Be brief.

MS. SIMON: Put down 3 percent instead of 10 percent, that's all, they all have to have jobs, they all have to have good credit rating, everything else has to be in order. The other part is the four buildings that are designated as fee simple will all be the same builder and will be the same builder who buys the whole package and there's something I was assured, it's not in writing but it was verbal, it was assured to me by Dan Hayes that day and it looks like that's what he's trying for and yes, he said everything was approved by the Attorney General and has to be approved by you and the only question I have is the recreation area is that do you mean the clubhouse that we have the clubhouse area is that what it means?

MR. DATES: Yes, the clubhouse, the pool, the tennis court, that parking lot.

MS. SIMON: That people were wondering if that's going to be a separate entity.

MR. DATES: No, it would be, it's carved off as a lot to be deeded to the homeowners' association, it will be owned by the homeowners' association but the taxes paid through the dues of all the units.

MS. SIMON: As it is now?

MR. DATES: Yes.

MS. SIMON: The other thing is just mention in passing issues of future maintenance and nothing else was said about that, is that an issue?

MR. ARGENIO: That's an HOA issue and Dominic will--

MR. CORDISCO: We just want to ensure that these units are actually going to be part of the homeowners' association so they're included in the mix for future maintenance but what those issue are whether or not you've got to replace roofs on buildings and whatnot.

MR. ARGENIO: Anybody else? Something different? Step up, sir, your name and address please?

MR. MIELE: Dominic Miele, 604 Balsam Drive, I have a question about the two end units that aren't completed at the end, two buildings that aren't completed, two empty lots. My question is are they going to be the first ones to be constructed when somebody comes in there to build? Because we were promised that, that Balsam Drive would become a town street, our mailboxes would be moved down and covered by the town.

MR. ARGENIO: Let me stop you, very much not relevant to this public hearing but I'd like you to take a moment and answer the question.

MR. DATES: First this is a private road, it will always be a private road, it will never be a town road as approved previously, as they would like to finish

out Balsam Drive, these two units that you pointed out they'd like to finish off that portion of the development and then pending the market as these are different unit types than like the stack over here depending on the market that would dictate sales as well.

MR. ARGENIO: Other questions, sir?

MR. FREEMAN: That's it, thank you.

MR. ARGENIO: Thank you. Anybody else? Different subject? Yes?

MR. BENTON: Tyrone Benton, 107 Balsam Drive. I think you kind of touched on this but I didn't hear it clear. What's the impact on the common charges, the builder usually pays the lot payments for all the empty lots until they're full which keeps our payments down, that still going to take place?

MR. ARGENIO: That's a good question.

MR. DATES: I spoke to Dan, these will be part of the homeowners' association, they'll all pay the same dues, actually, right now, the dues are set up for the full development for the common maintenance and whatnot so he's actually picking up the dues for these unconstructed units but the common dues would be equal across fee similar and the others.

MR. BENTON: You don't see that changing?

MR. DATES: No.

MR. ARGENIO: Next question?

MR. FREEMAN: That's it.

MR. SCHEIBLE: Good question.

MR. ARGENIO: That's what I would be concerned about. Motion we close the public hearing?

MR. SCHEIBLE: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded we close the public hearing on the Saybrook subdivision. Roll call.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Let me boil this down then if you guys have comments, you certainly want to, no, let's do it, no, let me boil it down first. The deal is they have met all of the requirements, engineering and otherwise with the exception of one key major issue, SEQRA's done, lead agency's done.

MR. EDSALL: SEQRA is not done, we have taken lead agency.

MR. ARGENIO: Motion we declare negative dec.

MR. SCHLESINGER: So moved.

MR. SCHEIBLE: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare negative dec under SEQRA process. Roll call.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE
MR. ARGENIO	AYE

MR. ARGENIO: SEQRA's done.

MR. EDSALL: Thank you.

MR. ARGENIO: Lead agency, SEQRA's done, public hearing is done and again, sir with the striped shirt, you beat around the bush there for a bit but I was glad to get to the importance of the issue in trying to address the issue that was important to everybody and that is what we're here to do and I hope that you feel a little bit better at this point. The important thing here is that HOA document, Mr. Dates, I'm sorry, that's the way it is my man, been stung too many times, and I'm not, we're not going to negotiate, be stung too many times. Anybody, any thoughts on this? This has been around and round.

MR. GALLAGHER: We need to see the document.

MR. SCHEIBLE: I agree.

MR. EDSALL: Yes, you'll notice in my comments the Town Board has granted concept PUD approval, at this point you've taken care of SEQRA that would allow the Town Board to conclude the issuance of their PUD approval. You should really refer it back to them so that this can be concluded and then final approval could be granted.

MR. ARGENIO: Procedurally, is it appropriate for us to

vote on final approval at this point in time? I mean seems to me all other stuff is done.

MR. CORDISCO: No, you have been, fortunately, it's not because at this point, the PUD approval while it's been conceptually granted it actually hasn't been granted yet by the Town Board.

MR. ARGENIO: Let me go to the next thing. Is it fair for me to say that this board has done its review effectively, completed its review, done due diligence, had the public hearing, received commentary for the public and now it's a procedural issue to send this thing to the Town Board? The next time this board needs to take action on this application we probably don't need to see Mr. Dates, we need to take a vote procedurally from what I'm hearing this PUD thing at town level.

MR. CORDISCO: That's correct, if it comes back from the Town Board with the PUD granted then at this point the only thing left for this board to do would be to grant a conditional final approval with laying out the conditions. Of course the one being that we discussed earlier that the homeowners' association documents be provided and approved by us.

MR. ARGENIO: What others are there, Dom, so we don't surprise anybody?

MR. CORDISCO: That they pay all the money they owe to the town.

MR. ARGENIO: Mr. Dates, let me say this to you, and I want to say this to Neil, we will not sign and stamp the plans until he's in possession and further the stenographer he's Dominic Cordisco of that document and he deems it in the best interest of the Town of New Windsor and I don't care about the AG, Neil, don't sign the plans until that's done.

MR. SCHLESINGER: Right.

MR. ARGENIO: What else can I do for you tonight?

MR. DATES: So there would, you won't be making a motion for conditional final?

MR. ARGENIO: We will not be.

MR. CORDISCO: We can't.

MR. ARGENIO: You don't have to come next time, Mr. Town Supervisor and his group needs to do some things. Next time it comes, Dominic will represent it as a discussion item and it seems to me it's procedural unless something whacked-out comes up.

MR. DATES: Understood.

MR. ARGENIO: Thank you, sir. Nothing else, motion to adjourn?

MR. SCHEIBLE: So moved.

MR. GALLAGHER: Second it.

ROLL CALL

MR. GALLAGHER	AYE
MR. BROWN	AYE
MR. SCHEIBLE	AYE
MR. FERGUSON	AYE
MR. SCHEIBLE	AYE

April 28, 2010

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MR. ARGENIO

AYE

Respectfully Submitted By:

Frances Roth
Stenographer

